

Notice of Allowability

Application No.

10/645,546

Examiner

David Montanari

Applicant(s)

KRUEGER ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicants arguments filed on 11/28/2005.
2. ☒ The allowed claim(s) is/are 1-3, 13-16, and 18, renumbered as 1-8.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 01/09/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


DEBORAH CROUCH
PRIMARY EXAMINER

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Deborah Yellin on December 20th, 2005.

The application has been amended as follows:

IN THE CLAIMS:

Claim 1. A method of increasing TrkB in a neuropathic hippocampal neuron comprising the step of: contacting a neuropathic hippocampal neuron in vitro with an amount of an isolated nucleic acid encoding full-length TrkB in an amount sufficient to increase the amount of full-length TrkB in said neuron, whereby said isolated nucleic acid is expressed in said neurons compared to a neuropathic hippocampal neuron not contacted with said isolated nucleic acid.

Claim 2. The method of Claim 1, wherein said nucleic acid encodes the amino acid sequence of SEQ ID NO: 2.

Claim 3. The method of Claim 1, wherein said nucleic acid comprises the nucleotide sequence of SEQ ID NO: 1.

Claim 13. A method of increasing the ratio of the amount of full-length TrkB polypeptide to truncated TrkB polypeptide in a neuropathic hippocampal neuron wherein the neuropathic hippocampal neuron has a higher amount of truncated TrkB compared to full-length TrkB polypeptide, said method comprising contacting a neuropathic hippocampal neuron in vitro with an amount of an isolated nucleic acid encoding full-length TrkB in an amount sufficient to increase the amount of full-length TrkB in said neuron.

Claim 14. The method of Claim 4, wherein said vector comprises a nucleic acid encoding full-length TrkB.

Claim 15. The method of Claim 4, wherein said vector is selected from the group consisting of a viral vector and a plasmid.

Claim 16. The method of Claim 6, wherein said viral vector is selected from the group consisting of a herpes virus, adenovirus, adeno associated virus, retrovirus, vaccinia virus, and canary pox virus.

Claim 18. The method of Claim 5, wherein said nucleic acid comprises a nucleotide sequence encoding the amino acid sequence of SEQ ID NO: 2.

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The following is an examiner's statement of reasons for allowance: The art of record does not teach or suggest the claimed method of increasing TrkB in a neuropathic hippocampal neuron or a method of increasing the ratio of the amount of full-length TrkB polypeptide to truncated polypeptide in a neuropathic hippocampal neuron.

While the information disclosed in the reference cited in the IDS submitted 1/9/04 has been considered, a line has been crossed through since no publication date is available for the search report. It is noted that the IDS was considered before (see office action filed 3/10/05).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Montanari whose telephone number is 1-571-272-3108. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla can be reached on 1-571-272-0735. The fax phone number for the organization where this application or proceeding is assigned is 1-571-272-3108.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David A. Montanari, Ph.D

Deborah Crouch
DEBORAH CROUCH
PRIMARY EXAMINER
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